INDEX DIGEST

PAGE

A

ADMINISTRATIVE LAW

In General:

Inapplicability of Federal Rules of Civil Procedure to administrative subpoena 592

Methods and procedure employed by Attorney General's Committee on Administrative Procedure 402–5

Policy of enforcing class action by administrative tribunal . . 714–21

Report of Attorney General's Committee on Administrative Procedure 401–40

Views of minority of Attorney General's Committee on Administrative Procedure 407–9

Administrative Agencies:

Affirmative action by administrative agencies for redress of group injuries 686–87

Competitive examinations to determine fitness for appointment to civil service positions in New York 317, 320–21

Effect of ignorance as to administrative regulations as a defense in criminal prosecution . . 660–62

Inspection of records under Fair Labor Standards Act of 1938 . 129

Office of Federal Administrative Procedure 422–24, 439–40

Policies of New York Labor Relations Board in representation problems 471–502

Power of parole board to recall parolee from foreign state . . 343

Reliance on acts of administrative agencies as defense in criminal prosecution 678

Waiver of sovereign immunity in actions of 156

See also *Labor Law; Securities and Exchange Commission*

Judicial Control:

Denial of appealability of orders directing hearings and investigations 119

Finality of determinations of public housing authorities . . . 304

PAGE

Judicial review of interlocutory administrative orders . . . 127–28

Of consumers' appeals from public service commission rate orders 258–66

Opinions of Justice Black regarding 32–37

Primary jurisdiction, exhaustion of administrative remedies, and final order rules 114–17

Relation between jurisdictional fact doctrine and review of orders directing hearings and investigations 120

Review of administrative adjudication 433–36

Review of rules of administrative agencies 437–39

Scope of operation of final order rule in limiting appeals . . . 116

See also *Public Utilities:* **Rate Regulation**

Procedure:

Adjudicating officers . . . 418–28

Admission of evidence . . . 430–33

Essentials of fair procedure . 406–7

Informal and prehearing procedures 412–17

Interlocutory determinations of federal administrative agencies 121–24

Morgan case, The 428–30

Orders directing hearings and investigations 117–21

Orders requiring production of evidence and submission of testimony 120

Publication of information concerning administrative process 409–12

Rule-making by administrative agencies 436–37

Under the Fair Labor Standards Act of 1938 548–51

AGENCY

Nature of the Relation:

Independent contractor as part of business enterprise 756

Independent contractor under respondeat superior doctrine and Workmen's Compensation Acts 753

Safeguarding employees as part of cost of employer's business . . 755

PAGE

Salesman not employee under Workmen's Compensation Acts 753

Principal's Liability for Acts of Independent Contractor:

Independent contractor as device to extend or restrict liability . 733

Traditional tests of independent contractor 753, 756

Principal's Liability to Third Person in Tort:

Knowledge of shareholder's "representative" on board of directors imputed to shareholder . . . 337

Vicarious liability of enterprises 732–42

ALIENS

Disability:

Prohibition of employment of aliens in New York public schools 317, 320

APPEAL AND ERROR

Review:

Appealability of interlocutory orders of federal administrative agency 121–24

Appeals from administrative orders and investigations . . . 117–21

Consumers' appeals from public service commission rate orders 258–66

Denial of petition to intervene not appealable since not final order 324–25

Power of appellate court to rule upon motion for new trial not passed upon at trial 786

Primary jurisdiction, exhaustion of administrative remedies, and final order rules 114–17

Relation between jurisdictional fact doctrine and review of administrative orders directing hearings 120

ARBITRATION AND AWARD

In General:

Estoppel by arbitration and affirmation 530–32

Arbitration Contracts:

Defective statutory award upheld at common law 756

General agreement to arbitrate not contrary to public policy . 758–59

Revocability of agreements to arbitrate 759

ASSIGNMENTS FOR CREDITORS

Preferences given Federal Housing Authority under statute giving priority to debts of United States 601–2

PAGE

ASSOCIATIONS

Power of unincorporated labor union to maintain action for libel 785

ATTORNEY AND CLIENT

In General:

Reliance on advice of counsel as defense in criminal case . . 652–53

Compensation:

Recovery of counsel fees in separate action 760

AUTOMOBILES

Automobile driver's liability for harm not caused by negligence 732, 739–40

Dealer franchises: cancellation without just cause 552

—invalidity for lack of "mutuality" 552–53

—recommendations of Federal Trade Commission . . . 554–55

—regulation of termination . 555–57

—standardized contracts substituting privately made law for common law and statutes . 557–58

Interpretation of provisions on parking lot ticket limiting lot operator's liability 763

Used car dealer's liability for injury to third party 162

B

BAILMENTS

Interpretation of contract provisions limiting bailee's liability . 763

See also *Automobiles*

BANKRUPTCY

Composition:

Wage-earner plans in Chicago . 106

Constitutionality of National Bankruptcy Act:

Petition of personal representative of deceased farmer under Section 75(r) 537–39

Purchase by mortgagor at appraisal value under Section 75(s) 539–43

Discharge:

Of debtor under Chapter XIII of Chandler Act 109–10

Power to suspend bankrupt's driving license for failure to pay negligence judgment 326

Prior discharge as barring wage-earner plan under Chapter XIII of Chandler Act 112

PAGE

Duties of Bankrupts:
Effect of lack of power of administrator under state law to perform duties of bankrupt under Frazier-Lemke Act 534–36
Under Chapter XIII of Chandler Act 107–13

Fraudulent Conveyances:
Effect of Uniform Warehouse Receipts Act upon bulk sales laws 157

Jurisdiction of the Court:
To administer estates of deceased insolvent farmers . . . 534–37

Priorities:
Of wage claims over debts of United States 600

Procedure and Practice:
Authorization by probate court of administrator's petition under General Order in Bankruptcy 50(9) 536–37
Contrast between corporate reorganizations and Section 75(s) of National Bankruptcy Act 543–44
Cost of proceeding under Chapter XIII of Chandler Act . . 108–11
Filing of petition by corporation dissolved by state . . . 535–36
Filing of petition by personal representative of deceased farmer . 532
Inadequacy of committee technique 688–90
Non-abatement of proceeding under Section 75 of National Bankruptcy Act on death of bankrupt 533
Right of mortgagee to foreclosure sale under Section 75(s) of National Bankruptcy Act . . 539
Under Chapter XIII of Chandler Act 106–13
See also *Procedure:* **Class Suit**

BANKS AND BANKING

In General:
Need for regional financing . . 197
Relation of finance to business . 196

Shareholders' Double Liability:
Applied to combined mortgage guarantee and trust company . 558
Enforcement by superintendent of banks 560, 561

BIOGRAPHY

Supreme Court Justices:
Justice Black's opinions, 1937–40 20–41

PAGE

C

CHARITIES

Rights and Liabilities of Charitable Organizations:
Tax exemption of public housing authorities 302

CHATTEL MORTGAGES

In General:
Rights of mortgagee in property of wage earner under Chapter XIII of Chandler Act . . . 107

CHOSES IN ACTION

In General:
Situs for tax purposes 160

COMMON LAW

Common Law and Legislation:
Effect of modern legislation upon testamentary capacity of married women 167

COMMUNITY PROPERTY

Alleged discrimination regarding income taxation in favor of residents of community-property states 162
Taxation of proceeds from land converted by agreement into community property . . . 159

CONDITIONAL SALES

See *Sales:* **Warranties**

CONFLICT OF LAWS

Administration of Estates:
Situs of liability insurance policy for purposes of administration . 769

Contracts: Making and Validity:
Effect of contract on title to real estate 160

Jurisdiction of Courts: Custody of Children:
Compared with adoption . . . 56
Distinguished from jurisdiction for divorce 53–54
Domicil of minor as basis for jurisdiction 54–55
Necessity for personal jurisdiction over child 54–56
Recognition of foreign decree . 56–58

Jurisdiction of Courts: Divorce:
Strict New York policy as to foreign decrees 344, 346

Legitimacy, Guardianship, and Adoption:
Ability to inherit distinguished from problem of legitimacy . 45

PAGE

Adoption as determining right to succession 47–49
Differences in policy regarding succession and adoption . . 47–48
Domicil as basis of jurisdiction for guardianship 59–62
Legitimacy as determining right to succession 43–46
Legitimacy determined by law of parent's domicil 45–46
Recognition of foreign decrees . 58–60

Property: Movables:

Proving acquisition of title by foreign government 580

CONSPIRACY

Application of Wharton's rule in Illinois 138
As part of law of attempts . . 139

CONSTITUTIONAL LAW

In General:

Ability of government corporation to sue and be sued . . . 154
Liability of government corporation for costs of suit 154

Civil and Political Rights:

Guarantee against double jeopardy as applied to soldiers . . . 588
How protected in Canada . . 781–82

Delegation of Powers:

By governor for issuance of extradition warrant 525

Due Process of Law: Personal Rights:

Invalidity of act requiring compulsory attendance of witness at grand jury proceeding in foreign state 567
New trials authorized by Articles of War 587, 588
Residence requirement for poor relief 544
Right to guardian ad litem in proceedings to determine competency 579

Due Process of Law: Procedural Requirements:

Administrative Procedure, Report of Attorney General's Committee on 401–40
Constitutionality of National Labor Relations Board instatement order 149
Standard of hearing for revocation of conditional pardon . . . 774
State action as prerequisite to protection 264–65

PAGE

Under Fair Labor Standards Act of 1938 548–51
Where resident is personally served outside state 596–97

Due Process of Law: Property:

Confiscatory public service commission rate orders . . . 273–79

Equal Protection of the Laws:

Residence requirement for poor relief 544–46

Freedom of Speech:

Clear and present danger test . 784
Picketing connected with collateral violence not protected . . . 779
Right of employer under National Labor Relations Act . . . 350

Legislative powers:

Alleged burden of state stock transfer tax upon interstate commerce 132

Privileges, Immunities, and Class Legislation:

Compulsory testimony in foreign state as denial of right to free ingress and egress 570
Tax exemption of public housing projects 302

Relations between state and federal governments:

Erie R. Co. v. Tompkins doctrine as means of separating functions . 145
Section 75(r) of National Bankruptcy Act not infringement of reserved power of states to administer decendents' estates 537–39

Searches and Seizures:

Compulsory testimony in foreign state as unreasonable seizure 569–70
Power to inspect records of administrator under Fair Labor Standards Act of 1938 . . . 130
Records required by law not immune as private papers . . 130–31
Relation of power to inspect records to power over interstate commerce 131
Wire-tapping 347–48

Separation of powers:

Determination of gubernatorial disability 521–29
Jurisdiction of domestic court over purchases by United States from foreign governments . . . 580–82

CONTEMPT

What Constitutes Contempt:

Voluntary communications to grand jury 561

PAGE

CONTRACTS

In General:

See *Illegal Contracts*

Conditions:

Automobile dealer franchises . . 552

See also *Automobiles*

Effect of incontestability statute upon age adjustment clause in insurance policy 146

On parking lot ticket as terms of contract of bailment . . . 763

Suits by Third Persons:

Liability of used car dealer for injury to third party . . . 162

CORPORATIONS

In General:

Liability of government corporation for costs of suit 154

Amendment of Charter:

Effect of amendment authorizing further amendment of charter 134–36

Effect of Illinois Business Corporation Act of 1933 upon corporation organized under General Corporation Act of 1919 . 137–38

Elimination of accrued arrearages on preferred stock 134

Disregarding Corporate Fiction:

Recovery by stockholders of parent for injuries to its subsidiaries 333

Use of corporate form not adequate test of right of sovereign to immunity from suit 156

Dividends:

Payment of dividends out of capital surplus under Public Utility Holding Company Act of 1935 725–28

Sufficiency of future earnings to cover dividends on both preferred and prior preferred stock as measure of coercion of exchange plan 136–37

Validity of state "privilege dividend tax" as applied to foreign corporations 605

Nature:

Contractual character of corporate charter 137–38

Officers and Directors: Liabilities:

Alleged participation in breach of fiduciary duty by outside party 329, 332

Duty of directors to investigate prospective purchasers of their stock 335–38

PAGE

Parent and Subsidiary:

Application of doctrine of *Irving Trust Co. v. Deutsch* . . . 331–32

Appropriation by parent of business opportunity of subsidiary . 331

Fiduciary relationship of parent to subsidiary 330–31

Powers:

Of Illinois corporation to issue prior preferred stock . . . 134

Recapitalization:

Corporate simplification under Public Utility Holding Company Act of 1935 372

Reduction of Capital:

To eliminate capital deficit . . 723

Reorganization:

Capital readjustments under Public Utility Holding Company Act of 1935 722–26

Definition of, for federal income tax purposes 7–8

Disposition of proceeds of foreclosure sale unclaimed by non-depositing bondholders . . . 802

Inadequacy of committee technique 688–91

See also *Procedure:* **Class Suit**

Shareholders' Derivative Suits:

Compared to class suit technique 691–92

Doctrine of forum non conveniens as instrument of expediency and justice 334

New York statute of limitations in actions for personal profit of directors 365–66

Recovery by minority stockholders for breach of fiduciary duty by parent corporation . . 329–30

Shareholders' Liabilities:

Duty to investigate prospective purchasers of stock . . . 335–38

Extension of double liability to non-banking functions of corporation exercising banking powers 558

Shareholders' Rights:

Dissenting preferred stockholder's rights regarding charter amendment authorizing issue of prior preferred stock 134

Inadequacy of remedy because of complexity and cost of suits 684–86

Individual cause of action for dissemination of false information by director 379–80

PAGE

Protection of preferred stock holders' rights under Public Utility Holding Company Act of 1935 . 722

COURTS

In General:

See *Federal Courts; Jurisdiction; Procedure*

Powers:

Of federal courts to order blood-grouping tests 361

Of federal district court under Public Utility Holding Company Act of 1935 to approve plan of corporate simplification . . 372

Of state court to enjoin proceeding in foreign federal court under Federal Employers' Liability Act 789

Voiding of appointment of university professor 319–22

CRIMINAL LAW

In General:

Duty to testify in grand jury proceedings in foreign state . 567–70

Utility of misprision of felony in contemporary society . . 340–41

Accessories:

Distinction between accessory after the fact and misprision of felony 338–39

Attempt:

Criminal conspiracy as part of law of attempts 139

Defenses:

Custom, reasonableness of conduct, and reliance on advice of counsel as proposed exceptions to denial of mistake of law defense to criminal prosecutions 651–53

Intercepted telephone conversation as illegal evidence under Federal Communications Act . . . 346

Misleading judicial decision as exception to mistake of law rule in criminal prosecutions . 668–75

Misleading legislation as exception to mistake of law rule in criminal prosecutions . . 654–68

Mistake of law defense and requirement of *mens rea* in criminal prosecutions 641–83

Modern justification of mistake of law rule in criminal prosecutions 646–51

Reliance on acts of executive as exception to mistake of law rule in criminal prosecutions . 675–83

PAGE

Wharton's rule as defense to criminal conspiracy 138

Procedure:

Right to revoke conditional pardon without hearing . . . 771

Scope of inquiry by asylum state in extradition of parolee . . . 342

D

DAMAGES

Elements:

Counsel fees 760

DESCENT AND DISTRIBUTION

Supreme Court decisions on federal estate tax, 1939–40 . . . 13–16

DIVORCE

Defenses:

Second spouse not estopped from pleading invalidity of wife's former divorce 343

Jurisdiction:

Strict New York policy as to foreign decrees 344, 346

Nature and Effect:

Divorce as implied revocation of will 167

DOMICIL

See *Jurisdiction*

DUE PROCESS

See *Constitutional Law*

E

ELECTIONS

Ballots:

Absent voter ballots as violating secrecy of ballot 564–65

Conduct of Elections:

Absent voter's waiver of right of secrecy 565

Counting and canvassing of ballots mailed in by voters absent from state 566

Time for challenge of absent voter's electoral qualifications . . . 567

Voting by electors absent from state 563–67

Primary Elections:

Certification by state canvassing board 523

Qualification of Voters:

Absent voter statutes as violating constitutional residence requirements 565–66

PAGE

Challenge of qualifications of voters absent from state . . . 566–67

EMINENT DOMAIN

Purposes for Which Property May Be Taken:

Public housing projects . . . 302

EMPLOYERS' LIABILITY ACTS

Right to sue in foreign federal court under Federal Employers' Liability Act 790–92

EQUITY

Decree:

Interpretation of Federal Rule 69(a) in relation to Equity Rule 8 . . . . . 589, 590

Exercise of Jurisdiction:

Review of interlocutory orders of administrative agencies . . 124–26

Jurisdiction of the Court:

Adequacy of legal remedy of spouse against whom foreign divorce decree was obtained on constructive service 142

Enjoining oppressive suit at petition of original defendant . 790–92

Restraint of foreign divorce proceeding 141

Procedure:

See *Procedure:* **Class Suit**

ESTOPPEL

In General:

Application to mortgage foreclosure under power of sale . . 104

Who Is Estopped:

Second spouse of person securing invalid divorce not estopped from asserting its invalidity . . . 343

EVIDENCE

Determination of Admissibility:

Telephone conversation intercepted in violation of Federal Communications Act . . . 346

Hearsay: In General:

Hearsay problems treated as opinion problems 621–40

Use of expert testimony to prove credibility of unavailable witness 625–40

Hearsay: Admissions and Confessions:

Self-contradiction theory of admissions 84–85

Hearsay: Official Statements:

Admissibility of docket of justice of peace as evidence of confession of guilt 570–72

PAGE

Nature and Scope:

Duty to testify in criminal proceedings in foreign state . 567–70

Precedent, importance of . . 78–79

Relation of basic principles to specific rules in growth of law of evidence 80–82

Right to present evidence after reversal of trial court's granting of defendant's motion to dismiss . 152

Technique for changing rules . 621–24

Uncertainty in application of rules 82–84

Opinion:

Hearsay problems treated as opinion problems 621–40

Rules for presentation to jury . 86

Relevancy, Materiality, and Prejudice:

Admissibility of docket of justice of peace as evidence of confession of guilt 571

EXECUTORS AND ADMINISTRATORS

Claims:

Federal estate taxes . . . 13–16

Nature and Duties:

Personal representative of deceased farmer as petitioner in bankruptcy 532

EXEMPTIONS

See *Bankruptcy*

EXTRADITION

Interstate:

Of parolee where complaining witness admitted charges to be false 342

F

FEDERAL COURTS

Jurisdiction:

Class suit as device to obtain federal jurisdiction 704

Injunction against interference by state court in proceeding under Federal Employers' Liability Act 792

Reviewability of administrative order as affected by "case or controversy" requirement . 113–14

To administer estates of deceased bankrupt farmers . . . 532–39

Powers:

To apply federal law in "federal field" 143

To enforce money judgment by contempt proceedings under Federal Rule 69(a) . . . 589, 590

PAGE

To order blood-grouping tests in disputed paternity case . . 361

Procedure:

After reversal of trial court's granting of defendant's motion to dismiss 152

Relation to State Courts and Law:

Control of state judicial procedure 265–66

Integration of state and national powers 23–32

Justice Black's contribution to *Erie R. Co. v. Tompkins* doctrine 31–32

State decisions in "federal field" not binding 143

Supersession of probate proceedings by federal bankruptcy proceedings on petition of personal representative 538

FEDERAL RULES OF CIVIL PROCEDURE

See *Procedure*

FRAUDULENT CONVEYANCES

What Constitutes Fraud:

Effect of Warehouse Receipts Act upon bulk sales laws . . . 157

G

GIFTS

In General:

The federal gift tax 16–18

GRAND JURY

Advantages of, to investigate public officials 562–63

Compulsory testimony of non-resident witness 567

Voluntary communications to, as criminal contempt 561

GUARDIAN AND WARD

Compensation of guardian ad litem appointed in insanity proceedings 579

Power of judge to appoint guardian ad litem to determine competency of prisoner 576

H

HABEAS CORPUS

Jurisdiction, Proceeding, and Relief:

Scope of inquiry by court of asylum state in habeas corpus proceedings in extradition of parolee . 342

PAGE

Nature and Grounds of Remedy:

Absence of authorization of court-martial procedure as ground for writ 586

Double jeopardy as ground for writ 586

HISTORY OF LAW

Criminal Law:

Misprision of felony 340–41

Mistake of law as a defense . 641–83

Evidence:

Duty to give testimony . . 568–69

Procedure and Courts:

Motion for new trial at common law 787

HUSBAND AND WIFE

Contracts between Husband and Wife:

Converting separate into community property 159–60

Rights of Husband against Wife and in Her Property:

Effect of statutes giving married women full testamentary capacity 168

Wife's Separate Estate:

Limitation by statute upon husband's rights 166

I

ILLEGAL CONTRACTS

Contracts against Public Policy:

Bailee's ability to limit liability for negligence 763

Expenditures in pursuance of illegal contract not deductible in income tax return as business expenses 778

General agreement to arbitrate not contrary to public policy . 758–59

INCOME TAXES

Deductions:

Business expenses, interest, and losses 9–10

Depreciation 10–11

Expenditures to affect legislation not deductible as business expenses 774

Of property taxes by purchaser of land in federal income tax return 602

Reorganization 7–8

Exemptions:

Public housing projects . . . 302

PAGE

Statutory Construction:
Re-enactment of statute as adoption of treasury regulations 11–13
What Is Income:
Alimony and short-term trusts . 2–6
Gain from forfeiture of lease . . 6–7
Who Is Subject to Tax:
Husband paying alimony . . . 2–4
Lessor upon forfeiture of lease . 6–7
Settlor of short-term trust . . 5–6
Transferor in reorganization . . 7–8
Where community income is divided between husband and wife 161

INHERITANCE TAXES
Property Subject to Tax:
Deceased settor's remainder interest in inter vivos trust . . 13–16
Estate subject to power of appointment 16

INJUNCTIONS
Acts Restrained:
Picketing by minority unions under New York Labor Relations Act 482–83
Prosecution of foreign divorce proceeding 141
Prosecution of suit under Federal Employers' Liability Act in out-of-state federal court . . . 789
Nature and Scope:
As method of enabling mortgagor to present defenses to foreclosure under power of sale . . . 95–96

INSURANCE
Accident Insurance:
Used car dealer's 166
Conditions:
Effect of incontestability statute upon age adjustment clause in policy 146
Employers' Liability Insurance:
Industrial accident insurance extended to independent contractor 754
Nature and Incidents of Insurance Contracts:
Situs of liability policy for purposes of administration . . . 769

INTERNATIONAL LAW
In General:
Proof in domestic court of title of foreign government to property purchased by United States . 580

PAGE

INTERSTATE COMMERCE
Methods of Regulation:
Miller-Tydings Amendment . 745–52
Power of Congress:
To regulate wages and hours in textile industry 548
See also *Labor Law:* **Sherman Act**
Power of States:
To impose stock transfer tax on interstate sale 132

J

JUDGMENTS
Bar to Other Actions:
In class suit 710–14
Declaratory Judgments:
Of federal court regarding state tax 572
Nature:
In relation to class suits . . 710–14
See also *Procedure:* **Class Suit**

JURISDICTION
In General:
Domiciliary allegiance theory . 598–99
Physical power theory 598
Conflict Between Federal and State Courts:
Over administration of estates of decreased insolvent farmers 537–39
Federal Courts:
Approval of corporate simplification in non-adversary proceeding 372
Declaratory judgment not prohibited by statute preventing restraining of collection of state taxes 572
Jurisdiction in relation to state taxes 573–75
Reviewability of administrative orders as affected by "case or controversy" requirement . 113–14
Reviewability of interlocutory orders of administrative agencies in equity 125–26
State court decisions not binding in "federal field" 143
State Courts:
In personam judgment obtained by service on resident outside state 596
Under Federal Employers' Liability Act 791

PAGE

L

LABOR LAW

Boycotts:
- Employer relief against secondary boycotts 354
- Secondary boycott defined . 354–55
- "Unity of interest" and right to picket and strike 356

Clayton Act:
- Reinterpreted in light of Norris-LaGuardia Act 503–16

Fair Labor Standards Act of 1938:
- Affirmative group redress by back pay orders of Wage and Hour Division 687
- Enforcement by consent judgment 589
- Inspection of records under . . 129

Injunctions:
- Against breach of contract with union 353

National Labor Relations Act:
- Constitutionality of National Labor Relations Board's instatement order 151
- Determination of appropriate bargaining unit under the *Globe* doctrine 489–93
- Difficulty of determining what constitutes bargaining in good faith 584–85
- Discriminatory refusal to hire as unfair labor practice . . . 149
- Employer required to embody collective bargaining agreement in writing 582
- Employment of "neither" ballot by National Labor Relations Board under *Interlake* decision . . 495
- Written agreements considered essential to collective bargaining 583–84

Norris-LaGuardia Act:
- Legalizing labor's restraints of trade 504, 511

Picketing:
- Injunction against picketing connected with collateral acts of violence 779
- Of small enterpriser utilizing non-union service 356, 360
- Problem of picketing by minority unions under New York and National Labor Relations Acts 480–83
- Protection under guarantee of freedom of speech 779, 783
- Relation between "unity of interest" and "common interest" 359–61

PAGE

- Secondary boycott defined . . 354
- State limitations of and constitutional guarantee of freedom of speech 361
- "Unity of interest" between disputant manufacturer and picketed retailer 356–57

Sherman Act:
- Application to labor unions avoided by Norris-LaGuardia Act . . 220
- Coercive activity of labor unions 222–45
- Congressional power over local employment affairs 233
- Labor disputes under 516–20
- Legality of secondary boycotts 223–25, 235–39, 244–45
- Legality of strike for closed shop 226–32
- Legality of strike to impose agreement not in restraint of interstate commerce . . . 251, 256–57
- Legality of union activity for purpose of destroying producer's interstate sales 222–24
- Organized labor activity forbidden by 514
- Reinterpreted in light of Norris-LaGuardia Act 503–16
- Requirement of substantial effect of strike on market . . 249–50, 253
- Requirement of substantial market restraint 224–25
- Union agreements for closed shops 246–57

Statutes:
- Breach of contract as the basis of labor dispute under State of Washington statute 353
- New York Labor Relations Act: balloting to determine appropriate bargaining unit . . . 489–94
- —comparison of various methods of determining appropriate bargaining unit 492–93
- —form of ballots employed in representation cases 494–502
- —initiation of representation proceedings by employer petitions 472–83
- —operation of "craft-unit" proviso 483–89
- —purposes of 471–72

Unions:
- Ability of union to maintain action for libel 785
- Attitudes of American Federation of Labor and Congress of Industrial Organizations regarding de-

PAGE

termination of appropriate bargaining units 483–84
"Common interest" among closely related workers 358
Contract that employer deal with no one not in good standing with union 353–55
Determination of the appropriate bargaining unit under the New York and National Labor Relations Acts 483–502
Employer's statement of open-shop policy and issuance of anti-union literature as unfair labor practice 350
Right of self-help in event of breach of contract by employer . . . 354
See also *Restraint of Trade*

LAWYERS

See *Procedure:* **Class suit**

LEGAL EDUCATION

Courses in legislation: arrangement in curriculum . . . 291–95
—content 280–95
See also *Legislation*

LEGAL ETHICS

Relation of bar to corporate finance 200–201

LEGISLATION

Content of courses in: draftsmanship 285–87
—formulation of legislative policy 283–85
—interpretation 287–91
—legislative organization and procedure 280–82
—pre-legislative influences . 282–83
Proposed Illinois legislation for mortgage foreclosure by power of sale 90–105
Reliance on unconstitutionality of statute as exception to mistake of law rule in criminal prosecutions 662–66

LIBEL AND SLANDER

Acts and Words Actionable:

Dissemination of false information by director of corporation . . 379
Distinction between libel "per se" and libel "per quod". . . . 800–801
False designation of attorney as "Nazi and Communist" . . 799
Injury to person in his professional capacity 802

PAGE

Liability dependent upon variation in referents of particular words 799–800

Parties:

Ability of labor union to maintain action for libel 785

LICENSES

Revocation:

Arbitrary cancellation by automobile manufacturers of dealer franchises 552

M

MANDAMUS

Proceedings:

To compel lieutenant-governor to serve as acting governor. . 524–25

MARRIAGE

Regulation:

By restraining prosecution of foreign divorce proceeding . . . 143

Validity:

Second marriage dependent upon estoppel to deny validity of prior divorce 344–45

MISTAKE

See *Criminal Law:* **Defenses**

MORTGAGES

Foreclosure:

Confirmation by power of sale. . 105
Disadvantages of foreclosure by court action 90–92
Disposition of unclaimed proceeds of foreclosure and sale under trust deed 802
Power of sale: advertisement and conduct of sale 96–98
—application of proceeds of . 98–100
—deficiency decrees . . . 99–100
—general advantages of . . 90–92
—marketability of title obtained 100–105
—notice to interested parties . 92–94
—opportunity of interested parties to present defenses . . . 94–96
—proposed Illinois legislation concerning 90–105

Rights of Mortgagee:

Under foreclosure by power of sale 90, 99, 102
Under Section 75(s) of National Bankruptcy Act 539
See also *Chattel Mortgages*

PAGE

MUNICIPAL CORPORATIONS
Debts and Contracts:
Bonds issued by public housing authority not debts of city . . . 303

N

NEGLIGENCE
Duty of Care:
Different meanings of term "foreseeability" 736–37
Liability of used car dealer for injury to third party 162
"Moral" negligence . . . 737, 743
New interpretation of *Palsgraf* case 729–45
"Objective" negligence . . 736, 744
"Quasi-negligence": liability for typical losses which can be calculated and insured against 736–38, 742–45
"Relative" negligence 730
"Transferred" negligence . . . 731
Proximate Cause:
Palsgraf case, The 729–45

NEW TRIAL
Power of appellate court to rule upon motion for new trial not passed on in trial court . . . 786

P

PARDON
Revocation of conditional pardon . 771

PARENT AND CHILD
In General:
Use of blood-grouping tests in disputed paternity cases . . . 361

PARTIES
Right of teacher to intervene in proceeding seeking to void appointments 323–24
See also *Procedure:* **Class Suit**

PARTNERSHIP
Partnership Property:
Land managed by partners distinguished from 160–61

PATENTS
Infringement:
Affirmation by state court of arbitration and award not res judicata in federal court 530

PAUPERS
Right to relief as affected by residence requirements 544

PAGE

PERSONAL PROPERTY
Application of bona vacantia to unclaimed proceeds of foreclosure sale under trust deed . . . 804

PLEDGES
Effect of Uniform Warehouse Receipts Act upon pledge violating bulk sales laws 157

POLICE POWER
Public Health:
Public housing projects . . 296, 302
Public Safety:
Validity of statute authorizing suspension of bankrupt's driving license for failure to pay negligence judgment 326

POLITICS
See *States*

PROCEDURE
In General:
Contemporary function of the class suit 684–721
Enforceability by contempt proceedings of consent judgment under Fair Labor Standards Act of 1938 589
Inadequacy of committee technique as remedy for class grievance 688–91
See also *Securities and Exchange Commission*
Class Suit:
Action by private litigants compared with action by administrative agency 714–21
As joinder device 702–4
Class participation after decree 693–95
—under Federal Rules of Civil Procedure 695–701
Compulsory joinder and class suit 707–10
Contribution to costs of action by participants in decree . . 715–16
Multiple joinder device in group action 687–88
Procedural efficacy of group redress of employees and investors . 692–93
Res judicata: relation to participation after decree 710–14
Types of class suits and res judicata 705–7
Federal Rules of Civil Procedure:
Blood-grouping tests under Rule 35(a) 361

PAGE

Inapplicability to enforcement of subpoena issued by National Labor Relations Board 592
Participation after decree in class suit. 693–701
Right of defendant to offer evidence after reversal of trial court's granting of defendant's motion to dismiss 152
Substantive rights and procedural rules 363–64

Illinois Civil Practice Act:

Power of appellate court to rule upon motion for new trial not passed on in trial court . . . 786

PROCESS

In General:

Notice to interested parties when mortgage is foreclosed under power of sale 92–94
Personal service on resident outside state 596

PUBLIC OFFICERS

De Facto Officers:

Lieutenant-governor's assumption of gubernatorial powers during governor's absence or illness 521–29
See also *States*

Eligibility to Office:

Alleged immorality as disqualification for teachers . . . 319, 321–22
Right of teacher to hearing when fitness is attacked 323

PUBLIC UTILITIES

Public Utility Holding Company Act of 1935:

Power of Securities and Exchange Commission to control creation and use of capital surplus . 723–24
Restoration of preferred stock margin of safety 722–28
See also *Securities and Exchange Commission:* **Public Utility Holding Company Act of 1935**

Rate Regulation:

Confiscatory rate orders . . . 273–79
Consumers' appeals from public service commission rate orders 258–66
Effect of striking down a public service commission rate order by court 270–71
Of cooperatives 369–72

What Callings are Public:

Cooperatives not under commission control 367

PAGE

Q

QUO WARRANTO

Determination of governor's right to continue in office 522

R

REAL PROPERTY

In General:

Law of estates not affected by registration 72–74
Registration as integral part of land law reform . . . 71–72, 77

Taxation:

Instantaneous and ratable accrual of real property taxes for purposes of federal income tax returns 604–5
Prorating of tax between vendor and purchaser dependent on ratable accrual 604–5

Transfer:

Inefficiency of present methods 65–66
Marketability of title obtained under foreclosure by power of sale 100
Remedies of vendee subject to prior claim 66–67

RECEIVERS

Allowance and payment of claims:

Order of priorities of wage claims and debts due the United States 600

RECORDING AND REGISTRY LAWS

Effect of Recording:

As prima facie evidence of facts recorded in mortgage foreclosure by power of sale 104

Nature and Scope:

Experience in public land utilization programs 70–71
Recording requirements for steps in foreclosure by power of sale 103–4
To provide information to prospecpective purchaser 70

Torrens' System:

Advantages of 67
Alleged ineffectiveness and undesirability of 63–64
Determination of title under . 74–75
Elimination of marketability problem by means of 75
Not a foreign system 76
Obstacles to adoption of . . 68–69

PAGE

REORGANIZATION
See *Bankruptcy; Corporations; Procedure:* Class Suit

RES JUDICATA
In General:
Relation to class suits . 705–7, 710–14
Matters concluded:
Separate suit for counsel fees incurred in previous suit not barred 760

RESTRAINT OF TRADE
Agreements as to Products or Prices:
Maintenance of competitive price as aim of present enforcement of Sherman Act 211–12
Clayton Act:
Reinterpreted in light of Norris-LaGuardia Act 503–16
Monopoly:
In collective bargaining of labor unions 205–6, 211–12
Investigation of, as means of avoiding criticism of New Deal . 217–18
Sherman Act:
Danger of indefinite interpretation 208–10
Enforcement against monopolistic labor unions 218–21
Enforcement by Anti-Trust Division 202–14, 215–21
Enforcement to restore free markets 202–14
Evils resulting from ineffective enforcement 215–17
Forbidding activities of organized labor 514
Hutcheson case, The 503–20
Inadvisability of seeking amendment 208
Not intended as an attack upon bigness. 206
Reinterpreted in light of Norris-LaGuardia Act 503–16
See also *Labor Law*

RIGHT OF PRIVACY
Infringement:
Interception of telephone conversation 348–49
Nature and extent:
Effect of profit motive . . . 384–85
"Public figure" test . . . 382–84
Remedies:
At common law 382
Statutory protection . . . 382, 384

PAGE

S

SALES
Warehouse Receipts:
Effect of Uniform Warehouse Receipts Act upon bulk sales laws 157
Warranties:
Used car dealer's liability for injury to third party 164

SCHOOLS AND SCHOOL DISTRICTS
Appointment of teachers by Board of Higher Education of New York City 319–22
Requirement that fitness of teachers be determined by competitive examination 321

SECURITIES
In General:
Competitive bidding and monopoly in finance 198–99
See also *Securities and Exchange Commission*
Bonds:
Multiple collection and multiple currency clauses 767–69
Negotiability of bonds containing "no action" clauses . . . 766–67

SECURITIES AND EXCHANGE COMMISSION
Public Utility Holding Company Act of 1935:
Advantages of judicial approval of voluntary plan in non-adversary proceeding 376–78
District court approval of voluntary plan of corporate simplification under Section 11(e) . . 372
Equity versus bond financing . . 200
When proceeding under Section 11(e) may be brought before district court 374–76

SHERIFFS AND CONSTABLES
Conduct of mortgage foreclosure sales under power of sale 90, 94, 97, 98–100

SLANDER
See *Libel and Slander*

SPECIFIC PERFORMANCE
Affirmative Covenants:
General agreement to arbitrate 759–60

STATES
In General:
Gubernatorial disability: constitutional provision for . 521–22, 526–27
—devices for determination of. 528–29
—judicial remedies for . . . 522, 524

PAGE

Methods for removal of disabled governor . . . 522, 524, 528–29

Relation to Other States:

Uniform act to compel attendance of non-resident witnesses in criminal and grand jury proceedings 567

STATUTE OF LIMITATIONS

Fraud:

Difficulty of discovery as rationale of delayed accrual of cause of action 365

Operation and Effect:

Corporation's doing business within state as prerequisite to running of statute 794–95

Desirability of revision of tolling provisions 796

Foreign corporation not absent within meaning of tolling provision if amenable to substituted service 793

STATUTES

Construction:

Blood-grouping tests within Rule 35(a) of Federal Rules of Civil Procedure 361

Effect of mistake as to the meaning of indefinite statute in criminal prosecutions 666–68

Federal Statutes:

Administrative "final order" rule . 115

For governing judicial review of interlocutory administrative orders 127

See also *Labor Law; Restraint of Trade; Securities and Exchange Commission; Taxation*

Interpretation:

Difficulties engendered by failure to differentiate administrative orders from non-orders . . . 114

Effect of mistake as to meaning of an indefinite statute in criminal prosecutions 666–68

Effect of statute enacted after time of alleged crime 654–55

Effect of statute not known to accused at time of alleged crime 656–62

See also *Criminal Law:* **Defenses**

Minimizing friction from introduction of new legislation . . 517–18

Of Section 75(r) of National Bankruptcy Act 534–36

Of Section 75(s) of National Bankruptcy Act 540–43

Of Sherman Act in terms of Clayton and Norris-LaGuardia Acts 504, 512

PAGE

T

TAXATION

Deductions:

In reorganization 7–8

Of business expenses, interest, and losses 9–10

Of depreciation 10–11

Of property taxes paid by purchaser of land 602

Excess Profits Tax:

Canadian Excess Profits Tax, description of 443–44

Excess Profits Tax of 1940: capital method for computing excess profits 457–62

—corporations subject to . . 445–46

—critique of 441–70

—definition of income . . . 447–49

—income method for computing excess profits 453–57

—legislative history of 443

—methods of computing tax compared to methods under World War excess profits tax . . . 446

—not onerous to most corporations 464–66

—provision for speedy amortization for defense facilities . . 449–53

—revenue anticipated 445

—suggested amendments . . 466–70

World War excess profits tax, condemnation of 442–43

Excise Tax:

Under Federal Bituminous Coal Act 18

Exemptions:

Public housing projects . . . 302

Inheritance Taxes: Federal:

Property subject to tax: deceased settlor's remainder interest in inter vivos trust 13–16

—estate subject to power of appointment 16

Persons Subject to Taxation:

Bituminous coal producers . 18–19

Donors 16–18

Husband paying alimony . . . 2–4

Lessor upon forfeiture of lease . . 6–7

Settlor of short-term trust . . . 5–6

Transferors receiving securities in reorganized corporation . . . 7–8

Power to Tax: State:

Classification for tax purposes . . 796

PAGE

Dividends declared by foreign corporation 605
Earmarking of proceeds from class taxes 797
Stock transfer tax on interstate sale. 132

Property Subject to Taxation:
Alimony payments and short-term trusts 2–6
Estates 13–16
Gain from forfeiture of lease . . 6–7
Gifts 16–18
Property of reorganized corporation 7–8
Validity of state "privilege dividend tax" as applied to foreign corporation 605–8

Public Purposes:
Advertising of state products . 798–99
Expenditure of proceeds to aid industries affected with public interest 797–98

Statutory Construction: .
Re-enactment of statute as adoption of treasury regulations . 11–13

Stock Transfer Tax:
Danger of double taxation . 133–34
Distinction between tax on seller and tax on buyer 133

Taxpayer's suit:
To void appointment of university professor 319

Where Property May be Taxed:
Establishment of constructive situs within taxing jurisdiction for earnings of foreign corporations 606

TORTS

Dangerous Enterprises:
Organized mechanical enterprise 734–37

Liability of Maker or Vendor of Chattel to Third Persons:
Used car dealer's liability . . . 162

Motive, Malice, and Intent:
Dissemination of false information by director for purpose of purchasing shares at depressed price 379
False designation of attorney as "Nazi and Communist" . . . 799

Nature of Tort Liability:
Absentee ownership 740
Fundamental notions determining liability 734–37, 743–45
Large organized enterprise 735, 739, 741
Payments for torts of servants as a cost of the business . . . 755

PAGE

Respondeat superior rule as basis for independent contractor liability 754
See also *Negligence*; *Right of Privacy*

TRADE REGULATION

Miller-Tydings Amendment:
Advisability of 747
Legality of collective bargaining by retailers 747–51
Provisions of 745
Purpose of Congress in enacting 748–49
Sponsored by retailers 746
See also *Restraint of Trade*

TRIAL

Reception of Evidence:
After reversal of trial court's granting of defendant's motion to dismiss 152

TRUSTS

Powers and Obligations of Trustees:
Desirability of legislation providing for handling of unclaimed money in hands of trustee . 805–6
Transfer into court of unclaimed proceeds of foreclosure and sale under trust deed 802

Taxation of Trust Property:
Inter vivos trusts 13–18
Short-term trusts 2–6

Termination:
Trustee under trust deed holding unclaimed proceeds of foreclosure sale for non-depositing bondholders as court depository . 803–4

W

WAR

Military Law:
Power of President to order new trial in court martial proceedings 586

Wartime Legislation:
Restriction of picketing in Canadian defense industries . . . 781

WILLS

Revocation:
Implied revocation of married woman's will by divorce and remarriage 166

WORKMEN'S COMPENSATION ACTS
Definition of employee and independent contractor 754

Z

ZONING LAWS
As means of slum clearance . . 313